

# WHAT COUNTS AS THEORY, TODAY? A post-philosophical framework for socio-legal empirical research // *Mariana Valverde*<sup>1</sup>

## Keywords:

theory / sociology of law / philosophy of law / empirical research

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## Summary

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## Abstract

While legal researchers' skepticism about much of what is on offer under the name of theory is well grounded, there are nevertheless theoretical resources that can very much benefit empirical researchers. Neither legal philosophy nor grand European sociology of law are particularly helpful, and in many respects these traditions constitute obstacles to concrete analyses of legal processes. But fortunately, today, there are other sources of theoretical and methodological inspiration. Here I present a small part of my own recent contribution to the project of revising 'theory' in a way that is more helpful to legal and empirical researchers than traditional philosophy and sociology.

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## 1 Introduction

In many parts of the world legal education and legal research have changed a great deal over the past ten or twenty years. Many legal scholars have come to appreciate the importance of empirical studies of legal processes and law reform efforts – studies that document, among other things, the often unintended effects of legal rules and legal change. Scholars engaged in such research on ‘law in action’ (whether based in law schools or in other departments) need theoretical inspiration and theoretical tools to put their particular research into a broader context. But my travels around the world suggest that from Canada to Germany to Argentina, many people who (often for the first time in their institution) are trying to do empirical research on law feel that what is offered as ‘theory’ in both law schools and social science departments is not helpful. Some react to this problem by simply rejecting anything that smells of critical theory (e.g. the relatively new US network of “Empirical Legal Studies”). But I want to argue today that while legal researchers’ skepticism about much of what is on offer under the name of theory is well grounded, there are nevertheless theoretical resources that can very much benefit empirical researchers.

Neither legal philosophy nor grand European sociology of law – the two main forms that legal theory takes, in civil law countries at any rate—are particularly helpful, and in many respects these traditions constitute obstacles to concrete analyses of legal processes. But fortunately, today, there are other sources of theoretical and methodological inspiration. Here I only have the space to present a small part of my own recent contribution to the project of revising ‘theory’ in a way that is more helpful to legal and empirical researchers than traditional philosophy and sociology (Valverde, 2015); but I do want to emphasize that there are many other potentially useful sources of inspiration, and I encourage you to explore these.

Theory sometimes has a bad name among those concerned to document law’s effects because the philosophical debates about the nature and essence of law in general that preoccupied people like Kelsen do not have a positive relationship with empirical research. If one begins from what I would call the nineteenth century European perspective, then theorists, or

rather philosophers, sit in splendid isolation producing purely abstract models, while empirical research is relegated to the lowly task of finding ‘examples’ (or counter examples). Even speaking strictly from a philosophical point of view, such a view of the relationship between theory and research has become completely outdated. The project of building a static, universally valid theory of law is, not to mince words, outdated and hopelessly Eurocentric. In my view (a view shared by many postcolonial, feminist, and legal-pluralist thinkers who don’t necessarily share my particular preferences as to which theoretical tools are best), the assumptions about what questions theorists should be asking that are taken for granted by grand European philosophy need to be set aside, not only because such a view of what counts as theorizing does not facilitate research, but also because that whole approach is not appropriate to theorize our present.

As a genre – that is, a habitual, taken-for-granted style of thought – grand legal philosophy assumes and presupposes that a great (almost always male) thinker, sitting in an (almost always European) university, can make authoritative pronouncements about the world in general and about law in general. That assumption was questionable even in the nineteenth century; but it is certainly inappropriate for an age when legal pluralism has been shown to be the norm rather than the exception, an age in which the exciting social and intellectual ferment that has given us a rich variety of post-Eurocentric alternatives, from feminist thought to indigenous challenges to Western notions of law, to legal anthropology’s insights about pluralism, have undermined not so much the specific claims of people like Niklas Luhmann but the traditional assumptions about what theorizing is all about. I am one of many socio-legal scholars who, greatly influenced not only by empirical studies of law but also by political-legal-social developments in the global South, and among marginalized groups in the global North, have come to question the assumption that a male professor sitting in Paris or Oxford can produce universally valid accounts of not only of law but even of justice. But in questioning this model of theory many of us have come to believe that the task today is not to look for new philosophers of the world in general, philosophers who happen to write

from Johannesburg or from Rio instead of from New York or London – the task is rather to question the model of the great philosopher, and work together in a more collective fashion to develop less grandiose, more modest, more research-friendly ways of thinking about the broader implications of particular developments, which is ultimately what ‘theory’ can do.

There are many different ways of ‘doing theory’ from a post-philosophical, post-Eurocentric perspective. But one thing that these diverse approaches have in common is a sense that theory is more a set of tools that can be used for research than a static scientific model of how the world works (or how it should work). Michel Foucault is perhaps the best known of the post-philosophical thinkers. As is well known, he argued that empirical investigation (in his case, historical research) is the necessary foundation for all original thought, and that insights developed from particular research projects can become tools for researchers in other contexts, with those insights and terms and ideas taking up the space previously given over to philosophy. I work largely within the Foucaultian tradition<sup>2</sup>, but as I will show in a minute, I have recently experimented with borrowing terms and ideas from a literary scholar of the 1920s who has nothing to do with Foucault and is not well known in legal circles, Mikhail Bakhtin, but whose work I think can be adapted for use in socio-legal research. My shift from Foucault to Bakhtin does not mean abandoning one great thinker in favour of another: one great virtue of thinking about theory in a post-philosophical manner is that one doesn’t have to abandon all competitors if one finds one thinker or one work or one idea useful. Theories such as Kelsen’s or Luhmann’s are meant to be total frameworks that exclude or falsify other perspectives. But in the post-philosophical age, it is quite possible to borrow tools from diverse sources – one idea from feminism, one from indigenous legal thought, one research method from anthropology, etc. Of course eclecticism is never a virtue; a great deal of reflection and experimentation is required to determine which combination of which particular insights or tools can work together,

for a particular purpose. Personally, I have spent a great deal of time worrying about the extent to which Bakhtin’s central notion (“dialogism”) is compatible with Foucaultian perspectives on governance and subjectivity. But random, smorgasbord-style eclecticism is not the necessary or the only alternative to the traditional position-taking theory game whereby one scholar argues for Luhmann and another argues for, say, Pierre Bourdieu, with everyone assuming that if one is right the other must be wrong. I will try to show this concretely in a minute; but first it is necessary to explain how and why I came to re-read Bakhtin and to adapt some of his ideas for socio-legal research purposes.

## **2 From literary chronotopes to legal chronotopes**

In the 1920s, Mikhail Bakhtin was pursuing a question that is central to all literary studies: the question of genre (Bakhtin, 1981; Todorov & Bakhtin, 1984). What makes a medieval epic different from lyric poetry or from the modern realist novel? What features of the genre of the detective novel allow even the most casual of readers to quickly identify a text as a detective novel?

Bakhtin’s answer to this perennial question was that each genre is easily distinguishable by its distinct space-time frame. The ancient Greek romance, for instance, featured heroes and lovers encountering adventures and difficulties, so time and space were both being traversed. But if one pays attention one sees that both time and space are held constant in relation to character development. In terms of time, the heroes do not age no matter how many adventures they undergo; they go travelling, encounter monsters, pass tests – and when they meet again they still act as if they were the same age. And in terms of space, as Bakhtin says, going from Athens to Alexandria doesn’t seem to involve any real travel – there is no difference between one place and another.

By contrast, the modern novel features characters that are fundamentally changed by moving across time and over space. When the hero returns home from travels he is definitely older, usually wiser, and in all cases, the time that has passed and the spaces he has traversed have made a real difference to his char-

<sup>2</sup> For more on how Foucault’s work can be used for purposes of legal research, see Valverde, M. (2010). Spectres of Foucault in sociolegal scholarship. *Annual Review of Law and Social Science*.

acter. Time and space displacement are thus formative for the modern novel's protagonists, whereas in ancient Greek narratives the protagonists have, from the beginning, a fixed moral identity, one that has to be actualized through actions, but that was inborn.

Other genres too have their distinct spatiotemporality. To give an example that Bakhtin doesn't himself give, the classic detective novel features an initial event that disrupts the space of normality – a murder committed in a peaceful village, for example. The investigation of that event then has the protagonist and through him/her the reader following clues in the present to find the hidden (past) causes of the criminal event. In the detective genre, it is assumed that the detective's forensic work has as its inevitable result the restoration of an initial state of peace and normality, an assumption that Luc Boltanski has recently argued can only be associated with modern state sovereignty in the global North (Boltanski, 2014). Indeed, a country in the midst of a civil war would not be a good location for a detective novel, since the temporally specific work of finding past causes for a present disruption of normality, with the goal of restoring, through the inquiry into the crime, the essential coherence of the normal peaceful state/village, would not work if violence is the norm rather than the exception. (In spy novels, by contrast, violence and deception are portrayed as endemic, not exceptional, and war or quasi-war situations/chronotopes are thus well suited to spy stories).

Bakhtin's 'chronotope' is not a notion created by the addition of a particular space (say, the peaceful village or the ordered nation-state) to a particular temporality. In each genre or chronotope, Bakhtin pointed out, time shapes and limits and determines space, and vice versa. That is, time and space are not independent. The chronotope is not time plus space: it is spacetime, or timespace. In lyric poetry, for example (Bakhtin points out), the rural spaces in which lyric poems are set are internally connected to the de-historicized temporality of innocence that the genre both presupposes and creates. Neither economics nor politics can enter into the spacetime of lyric poetry.

To pick a more contemporary example, one could contrast the spatiotemporality of the detective nov-

el to that of the soap opera or telenovela. First, the soap opera is always open-ended; television producers might decide to end the season or the show with a major event, but the genre is by definition open to the future. Some hitherto invisible illegitimate child could always pop up and give rise to new episodes, for example, whereas in the detective novel, once the crime has been solved the book has to end. And this temporalization, which is in many ways the opposite of the temporalization of the detective story, is intrinsically connected to the physical and social space of the family home, the privileged site of the soap opera/telenovela. The characters might be shown going to work or spending time in public places, occasionally, and of course families are necessarily engaged with outsiders (always evaluated from the point of view of whether they are suitable as new members of the extended family). But the prototypical space-time of the telenovela, that which makes it a distinct genre, is that of the always-in-crisis, open-ended, complicated family.

The authority figures are, not surprisingly, quite different. The detective is all-knowing, at the end if not at the beginning, and the reader can feel a vicarious sense of power as Hercule Poirot or Sherlock Holmes give what is always the authoritative account of the causes of a particular crime. By contrast, in the telenovela, the family's problems and joys are shown as continually managed but never finally resolved by a maternal figure who has more knowledge than others but is always at risk of being deceived by her many relatives. This caring but often ineffectual figure is usually shown as most comfortable in her own kitchen, the prototypical site of the family's various crises (or rather the site in which they relate their crises at length and with many tears). Domesticity, or rather the specific, tragic-sentimental domesticity of the telenovela is thus in part defined by the paradigmatically domestic space of the kitchen-dining room, but the genre is also defined by a particular temporality – the endless, crisis-filled temporality that in this genre defines the private life of the family. Multigenerational family sagas, from Emile Zola to *Roots*, often focus on the public side of family life, on business affairs, travel, children's education and so on; but the point of the telenovela is precisely to vindicate and value the private side of family life for

its own sake. A particular show is a telenovela if the characters, and especially the wise mother or grandmother, work hard day after day to keep the family's shameful fights and secrets away from public view, with those efforts never being permanently secured, since even the wisest mother can never ultimately control her always errant children. Domestic power, the telenovela tells us, is always contingent and never finally secured; there is no domestic sovereignty and there is no domestic 'law and order'.

How is this relevant for socio-legal analysis? Let me address this tangentially at first, by explaining how the ideas developed in my recent book *Chronotopes of Law* evolved to some extent out of a reflection on an earlier, quite influential attempt to take legal thinking beyond philosophy: Boaventura de Sousa Santos' notion of 'interlegality'. In an essay published in English in 1987, which has been much read and much cited (especially by those who write about law and spatial regulation), Santos argued that instead of theorizing 'law' in general, we should focus on the dynamic relations among different scales and systems of law that he called 'interlegality' (Santos, 1987).

Writing against legal philosophy, Santos pointed out that there is no such thing as law in general; national legal systems always coexist with global law and with local law, and non-national legal rules follow logics that are quite different from those of the nation-state – so that the differences between different scales of law are not merely quantitative. This insight (closely related to the 'legal pluralist' project promoted by anthropologists studying how customary and/or indigenous law coexisted with colonial Western law) was extremely influential. However, it was limited in that it only considered law's spatial or geographic scales. Reading Bakhtin and being inspired by his work made me see that law doesn't just have different spatial scales (global, national, local, terrestrial, maritime, and so on). What I (and many others) call legal assemblages – a term chosen because it emphasizes contingency and ad hoc decision-making, in contrast to the top-down planning presupposed by terms such as 'legal systems' (Li, 2007) – are simultaneously spatialized and temporalized in distinct ways. For example, let us take a common legal object: the licenced bar or pub. This is a particular space charac-

terized by being extra-domestic and being devoted to non-familial socializing. But the space is also temporalized in a specific manner – that is, the temporalization affects the very definition of the space. The bar is only a bar when it's open for business – indeed, it is only a real bar in the evening. At 9 in the morning the building, the space, exists, but the legal chronotope of 'the bar' has disappeared, and will return only as evening falls. (And if a jurisdiction has firm closing hours, the bar will become, quite suddenly, a space of illegality, after 2 am or whatever the legal hour might be – it will no longer be a proper bar).

Another legal chronotope I explore in my book is the 'single-family home'. In most jurisdictions urban space is legally divided into distinct categories: commercial vs. industrial, and, in many places, residential areas with apartment buildings vs. residential areas that are designated as 'single-family detached'. The single-family detached home – typically a house surrounded by a yard and containing a nuclear family – is not just a space. It is a temporalized space, deeply rooted in the life-stage temporality reflected in the civil-status category of 'married with children'.

Of course, a single person is free to buy and inhabit a single-family home – the link between 'married with children' and the particular space that is the detached home with a yard is not absolutely compulsory, and could not be, in a liberal legal system. But there is a very definite association, a close link, between the temporality of 'married with children' and the space that is the single family home. Before one is married and has children one is supposed to inhabit a different space: the rented apartment. Scholars, especially in the US, have written a great deal about how the spatial arrangement of urban life, especially through zoning, brings about or reinforces class and race power. That is certainly true: race and class power do work through space. But legal scholars of race and urban life have totally neglected the temporality of different categories of urban space. The single-family detached category, regarded as a chronotope, draws attention to life-course temporalities in particular – but there are other types of temporal classifications of space that have rarely if ever been explored. For example, there are beaches that are meant for the weekend and/or the holiday, and

are meant to be leisure spaces to be enjoyed during daylight hours (many beaches ban sleeping there at night); similarly, there are many sports spaces whose 'essence' changes depending on the time of day and the time of the week or the season of the year. That the legal nature of particular spaces can change with time is well known; for example, numerous cities in the global North ban people from using parks at night. The larger implications of temporalizing spaces and enshrining this temporalization in legal rules have not yet been understood.

The courtroom is another example of legal chronotope. Socio-legal scholars interested in the materiality of law have described how particular architectural and furniture choices enact the special space of adjudication; but focusing only on space, they rarely if ever note that, like the bar, the courtroom is only a legally effective courtroom during a particular time. It is only as the judge enters and the clerk announces that 'this court is now in session' that the room, whatever acquires its distinct legal essence. And just as in a football match the referee decides when to stop the chronotope of the match (for example, deciding when an injury to a player requires that the game be stopped), and only the referee decides when to start it up again, so too, in the courtroom, the judge can make the chronotope of the court come and go by calling recesses or lunch breaks. The time of the courtroom is thus not continuous, and not the same as clock time. The time of the courtroom is organized by the judge's sovereign power to start and stop the clock of law – which is not necessarily synchronized with the clock on the wall.

Spatial analyses are usually static, as was the case in Boaventura Santos' famous description of law as a series of maps drawn at different scales. If we focus the scholarly gaze on the way in which particular legal assemblages make use and connect particular forms of spatialization and temporalization, then a much more dynamic analysis is possible.

An additional useful feature of the chronotope idea is its compatibility with an interest in the aesthetic and affective dimensions of legal power, dimensions already highlighted, but not theorized in any systematic way, in the article by Boaventura Santos

mentioned above. The single-family detached legal category privileges a specific emotional condition – the sentimental chronotope of family togetherness, parental responsibility, and childhood innocence. It is assumed that parents who spend money purchasing a single family home are more responsible, better parents, than those who live in a low-rent apartment building. Thus, the duties, responsibilities, and pleasures of nuclear family life, usually seen through a rose-coloured lens that features love and devotion – but never domestic violence-- are part and parcel of the legal chronotope of the single-family home.

Similarly, the chronotope of the courtroom is characterized by a certain structure of feeling -- that contained in the phrase 'the majesty of law' (and also implied in the popular phrase, 'I want my day in court'). One cannot separate the honour and authority that attaches to the judge, which is a legally important bundle of feelings, emotions, training, and aesthetic habits, from the time and space particularities of the spacetime that makes a judge a judge – and viceversa. The spacetime that is the courtroom in session constitutes 'the judge' as a combination of ethical/emotional practices and legal qualifications; and in turn the judge's particular authority makes certain spacetimes actual, effective courtrooms (rather than, say, a collection of film sets for a courtroom drama).

This may be a good place to stress that chronotopes do not exist out there, like flowers in a field. It is the researcher who has to think about where to draw the lines that define the chronotope under study. For example, the criminal trial, as a legal genre, can be usefully regarded as a chronotope, since standards of proof and burdens of proof that are found in criminal but not civil law set up and presuppose specific spatiotemporal dynamics. But for other purposes one could say the courtroom in general is the chronotope, no matter what kind of legal proceedings are taking place in it. Similarly, in regard to social entities, one could treat a single city as a chronotope when distinguishing its internal organization from that of other cities, but one could also focus on how one neighbourhood is organized differently from another (or in Brazil, how favelas are organized differently, spatiotemporally, than the formal city known as 'the asphalt').



I hope that these examples begin to persuade you that borrowing Bakhtin's idea of the chronotope helps us to produce analyses of legal and quasi-legal entities and assemblages that link space and time instead of separating them. But let me now move on to a second argument in favour of the chronotope idea, which concerns the way in which a chronotope analysis sheds light on the oldest legal question of all: the question of jurisdiction.

### 3 The game of jurisdiction

Jurisdiction is the most basic, most fundamental legal machine. Jurisdiction is nothing less than the law of law – and, more generally, the governance of governance, since sociolegal scholarship includes in its purview not only formal state law but also jurisdictional arrangements that are outside of state law. For example, young children understand jurisdiction without knowing the word because they understand the division of governing labour between 'mom' and 'dad', or between their particular teacher and the school principal. The content of these jurisdictional divides varies from family to family and school to school, but I would venture the generalization that all families and all schools have an internal jurisdictional division of governance.

Jurisdictional divides can overlap with spatial scale, as when we distinguish European Union law from the law of France or England. That is only a very small fraction of the jurisdictional apparatus that underpins governance. Jurisdiction works to distribute legal authority not only by territory but also by subject matter (family law vs criminal law) and even by temporality (with some crimes being subject to statutes of limitations and others not). Lawyers are by trade highly aware of the arrangements that organize the complex relations between different legal and judicial authorities that operate in the same territory (e.g. constitutional courts vs courts of first instance; civil law suits vs criminal prosecutions; family law vs labour law; etc). However, even ordinary people have a rough map of jurisdiction. Ordinary people may not know exactly what makes a matter criminal, but they know that murder and theft are criminal offences and hence are prosecuted by the state; and they also know that municipalities and central gov-

ernments have different jurisdictions. Few people would go to a federal court to complain about poor garbage collection; and few if any ordinary citizens imagine that cities can exercise immigration policy powers.

The key point here – a Foucaultian point – is that once a matter has been assigned to mom rather than dad, to a criminal court instead of a civil court, to the city rather than the state, that classification already, from the start, determines HOW the issue will be governed. Thus, qualitative differences in 'styles of law' (to use Santos' phrase) or, to use Foucault's language, in modes of power/knowledge, are reconciled or at least are managed through the machinery of jurisdiction.

What is important about jurisdiction from the point of view of governance, therefore, is that the machinery of jurisdiction works not only to sort issues among the different authorities and types of law/court, thus distributing sovereignty, but also to naturalize, to de-problematize the sharp differences, even conflicts, that one sees among different ways of governing people and problems, even within the same state. Neither ordinary people nor most legal scholars are likely to question jurisdiction's basic architecture. People don't stop to ask: what would happen if we governed criminality more like a family rather than like a sovereign state? Or what would happen if we governed the family more like a market? And so on. We take it for granted that once we have assigned a problem to a particular jurisdiction, then, automatically, a certain, qualitatively distinct mode of governance will be applied. It just seems natural or commonsensical that a municipality will try to provide services to the inhabitants, insofar as it has the resources – and it seems to go without saying that a federal government will disavow responsibility for basic services like water and electricity, and will instead inquire whether the inhabitants are legal residents or are illegal immigrants. People unhappy with their running water or their bus service will protest in front of city hall, and will not (during normal times at any rate) think of going to the national capital. That is because certain needs have been assigned to particular levels of government for so long that the jurisdictional divide has come to seem natural rather than legal.

As the machinery of jurisdiction grinds on and continually naturalizes divisions of governing labour that have nothing natural about them, the contradictions between the multiple logics that any legal system, liberal or not, contains, are also naturalized and thus swept under the analytical rug. It just makes sense that municipalities try to look after residents; and so municipal inspectors and guards tend to behave differently than members of the national police and the military. Shifting certain matters (e.g. minor drugs) to the local level, to municipal health and safety inspectors, would probably have more impact on how drugs and drug users are governed, and more quickly, than any amount of money spent training and retraining federal and quasi-military police agencies. The existing contradictions between different ways of seeing citizens (local service provision vs national security logics, for example) tend to go unnoticed through the naturalization of jurisdiction, and the way in which the machinery works discourages critical questions about why certain logics are applied only in certain jurisdictions.

This connects with the chronotope analysis as follows. Just as we don't ask why a detective novel couldn't be improved by the kind of leap into the future that characterizes the genre of science fiction, since we expect the genre of detective story to be consistent and to not suddenly shift to the genre of science fiction, so too we don't ask why, for example, the pastoral, welfarist logic of (most) youth courts couldn't be applied to other types of legal proceedings. People who are losing their house to the bank because they have become unemployed and cannot pay make mortgage payments do not expect the bank to care about their welfare, and they do not expect the civil courts to make decisions by using the logic of care. The logic of debt, as enforced by civil courts, has its own chronotope, or rather shares the chronotope of the capitalist market, where everything has a price and people who sign contracts cannot escape their debts, no matter what the circumstances. The static spacetime of the contract reigns. Youth welfare work, by contrast, including much work that is done pursuant to criminal charges, relies on a different chronotope, one which is dynamic and not static, and in which personal circumstances do matter. To give another example, this time from criminology, the now mainly abandoned idea of 'rehabilitating' offenders relied on a very dif-

ferent chronotope than the backward-looking biblical notion of retribution, which is in turn distinct from the risk-management, future-oriented logic of incapacitation: 'chronotopes of punishment' would be a worthwhile research topic.

Jurisdiction thus naturalizes distributed governance, and specifically naturalizes the heterogeneity of governance. In other words: as the game of jurisdiction proceeds, different modes of governance, which are quite at odds with one another, are enabled to quietly coexist. This characterizes not just complex legal systems but also quasi-legal or nonlegal governance. To return to the family example, how mom governs the children's misbehaviour can coexist quite happily with how the same behaviour is governed by 'dad' and by school authorities, insofar as everyone takes it for granted that mom's way of governing is limited to her particular jurisdiction/chronotope. If she tried to have mothers take over the school and run them using their own approach, then a conflict of chronotopes and jurisdictions would ensue; but such things rarely happen.

It is thus useful to see each jurisdiction as a particular chronotope --with a characteristic relation between space and time. From this point of view, the proliferation of specialized tribunals and quasi-legal venues for dispute resolution (using arbitration, mediation, or ad hoc procedures) thus poses no real threat to the traditional logics of criminal law and other displays of sovereign coercive power; it would only be if people started asking why restorative justice or mediation is not appropriate for all legal matters that the proliferation of distinct modes of legal decision-making would pose a threat to the status quo. The naturalization of different chronotopes (the family household; the prison; the national border, etc) helps in a very significant way to prevent not only ordinary people but even lawyers from asking radical questions (such as, 'why do we not govern criminals as if they were family members?')

Last but not least, one of the virtues of Bakhtin's work is its careful attention to the mood and the affective dimension of particular chronotopes. Critical legal studies, if one can generalize for a moment, has generally been rather deaf to the aesthetic and emotional dimension of law and governance. With



the major exception of (some) feminist work, critical legal scholarship has tended to focus only on vested, rational-choice interests, and has therefore itself suffered to some extent from rationalism. Bakhtin's brilliant analysis of the aesthetic and emotional dimensions of different chronotopes is by contrast very much in keeping with Santos' effort to document the various, always embodied, never rationalistic, 'styles of law' that coexist not only in the same territory but even in the same institution or even the same person. To return to the example of a hypothetical conflict between maternal practices for governing children and the formal school system's approach, it is clear that the spacetime of the mother at home has a very different emotional feel from the spacetime of the formal state school. That emotional or affective background factor is important. Bakhtin pointed out that each literary genre has a distinct 'mood' – an air of impending disaster and panic pervades horror movies, for instance, even before the credits have rolled. So too do legal chronotopes have a particular mood. 'National security' and 'the fight against terrorism' are terms that trigger a particular chronotope of security using well-defined moods; the chronotope of national security is in many ways defined by its contrast with chronotopes of welfare and compassion, such as the 'solidarity' that is invoked by trade unions. Legal scholars are not usually attuned to emotional and aesthetic issues – despite the fact that many lawyers and many judges become over time masters of emotionally powerful rhetoric, and not just in the common law world. Thinking about legal power and legal processes in terms of chronotopes can help to remedy this rationalist deficiency. Thinking of national security as a chronotope, one that is characterized by certain spatiotemporal logics (vigilance; the precautionary principle; etc) that are quite distinct and different from the spatiotemporality of other state projects (immigration, say, or public health) may be a useful innovation. In the *Chronotopes of Law* book I give several examples of 'chronotopes of security', and also of other types of legal chronotopes, but these are just examples.

tools suited to our own age involves developing tools for analyses of 'law in action' that identify the spatio-temporality of different types of legal processes, in part because it helps to appreciate the fundamental role played by the game of jurisdiction, analyses that furthermore do not arbitrarily exclude aesthetics and emotion from our accounts. Whether this will indeed be useful to take socio-legal studies into the future is the question --one that will only be answered over time by people such as you and others reading these words.

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#### **4 Conclusion**

To sum up, then. My attempt to develop theoretical

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Data de submissão/Submission date: 9.9.2015

Data de aceitação para publicação/Acceptance date:  
4.12.2015